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## **Petition for New Trial Denied in Flagstaff Murder Case**

(Phoenix, Ariz. – March 15, 2007) The Coconino County Superior Court today denied Eric Michael Clark's petition for a new trial based on ineffective counsel. The decision by Coconino County Superior Court Judge Dan Slayton was handed down this afternoon.

Clark was found guilty of murdering Flagstaff Police Officer Jeffrey Moritz in 2000. Before his trial, Clark was deemed incompetent to stand trial for an extended period of time and sent to the Arizona State Hospital for restoration to competency. Eventually, the parties agreed Clark was competent, and he was tried and convicted of first-degree murder. The case was affirmed in 2005 by the Arizona Court of Appeals and by the United States Supreme Court last June.

Clark's primary claim in his new trial petition was that counsel was ineffective for failing to raise again the issue of competency after receiving a report from a psychologist opining that Clark was incompetent to stand trial. Judge Slayton denied the claim, stating that Clark's competency had been extensively litigated prior to the new report. He also said this report did not contain any new information that was significantly different from information already before the court. The judge ruled it would be speculative to conclude that the trial judge would have changed his competency determination based on the new report.

The court also rejected Clark's claims that counsel was ineffective for: (1) failing to re-raise the issue of competency during trial; (2) advising Clark to waive a jury trial; (3) agreeing to limit the number of experts at trial; and (4) failing to preserve an "observational evidence" claim.

Attached is a copy of the ruling in the Clark post-conviction relief proceeding.

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